

Attorney Docket No. OCA-184-A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Matsuda et al.  
Serial Number: 10/ 749,459  
U.S. Filing Date: 30 December 2003  
Group Art Unit: unknown  
Examiner: unknown  
Confirmation Number: unknown  
Title: IGNITION DRIVE FOR BUS CONNECTION

AFFIDAVIT OF JOSEPH P. CARRIER

Affiant, being duly sworn, hereby deposes and states as follows:

1. I am currently employed full-time as a patent attorney, senior counsel, at the law firm of Carrier, Blackman & Associates, P.C. (CBA), 24101 Novi Road, Novi, MI 48375, and have been so since April 1998. Prior to 1998 I was employed full-time as a US patent examiner from September 1983 –February 1985, and was employed full-time as a patent agent or patent attorney from March 1985 – March 1998.
2. One of my duties at CBA is to review, revise and file new US patent applications which are based on corresponding foreign patent applications, while claiming priority from the corresponding foreign patent applications.
3. Another of my duties at CBA is to review CBA docket system on a regular basis (at least semi-weekly) to determine what patent applications and other matters have upcoming deadlines for taking various actions, and to assure that such actions are performed in a timely manner by the staff of CBA.
4. Still another of my duties at CBA is to review various documents prepared by the secretarial staff of CBA, including patent application data sheets and Utility Patent Application Transmittals (form PTO/SB/05) which are to be filed with the US Patent & Trademark Office (PTO) to assure that such documents are proper before they are filed with the PTO.
5. Such duties are performed in cooperation with the secretarial staff of CBA, including secretary Kathryn MacKenzie, who has been with CBA since June 2001.
5. On November 28, 2003, Japanese patent attorney Takeshi Ochiai (Ochiai), on behalf of Honda Giken Kogyo Kabushiki Kaisha (Honda), requested CBA to revise a translation



of Japanese patent application 2002-376637 (JP '637) , and to return a revised copy of the draft application to Ochiai for final revision prior to filing in advance of a deadline of December 26, 2003. JP '637 was filed in the Japanese Patent Office on December 26, 2002 by Honda Giken Kogyo Kabushiki Kaisha (Honda), which acquired ownership of the invention disclosed in said application from the inventors (Matsuda et al.) who were/are employees of Honda.

6. I prepared a revised draft of the application and on December 9, 2003, Ms. MacKenzie sent a revised draft of the subject patent application to Ochiai via facsimile and express courier.
7. On December 19, 2003, Ochiai sent a final corrected draft of the subject patent application back to CBA via facsimile and express courier, with explicit instructions to file a U.S. application claiming priority based on JP '637 on or before December 26, 2003, explaining that December 26 was the priority due date.
8. Upon receipt of the December 19 letter, I instructed Ms. MacKenzie to prepare the documents necessary for filing the application with the PTO (i.e., an application data sheet and a Utility Patent Application Transmittal (form PTO/SB/05)), and that the application should be promptly filed with the PTO via US Postal Service Express Mail (USPS) as soon as the original of the December 19 letter arrived at CBA to ensure that priority of JP '637 would be secured for the US patent application.
7. On the morning of Monday December 22, 2003, the original of the December 19 arrived at CBA, and was specifically received by Ms. MacKenzie who has the normal responsibility for receiving express courier deliveries at CBA.
8. After receiving the original December 19 letter with enclosures on December 22, 2003, Ms. MacKenzie placed the letter and enclosures in a patent application file she had previously opened for the application, and then placed the file in a rack on her desk with the intention of filing the application with the PTO via USPS later that day to assure that priority from JP '637 could be obtained for the new application.

9. Despite my instructions to file the application with the PTO on December 22, 2003, Ms. MacKenzie was unable to do so because of other matters she was attending to, including the filing of other new patent applications with the PTO.

10. Further, despite my previous intentions to timely file the application, Ms. MacKenzie subsequently forgot about the subject application for various reasons, including other matters she was working on and the fact that she was to be on vacation from December 24 – December 30, 2003. Moreover, before Ms. MacKenzie left for vacation she failed to inform anyone else at CBA about the application which still needed to be filed by the December 26, 2003 priority deadline.

11. To compound matters, an error was made in CBA's docketing system regarding the proper date for docketing the filing of the subject application with the PTO, i.e., an erroneous docket entry had initially been indicating a US filing deadline date for the application was December 11, 2003, rather than December 26, 2003, and such entry was improperly deleted after the draft version of the revised application was sent to Ochiai on December 9, 2003, rather than being reset/re-entered for December 26, 2003 the proper filing deadline.

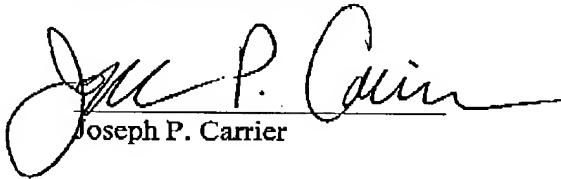
12. Due to the Christmas holidays, the office of CBA was closed for business on the afternoon of December 24 and on Thursday December 25, 2003.

13. On Friday December 26, 2004, CBA was open for business and I filed one patent application with the PTO via USPS Express Mail. Further, I personally checked CBA's docket system for any other deadlines which needed to be met that day, but because the entry for filing the subject application had been improperly deleted, it was not then discovered that the subject application still needed to be filed.

14. On Tuesday, December 30, 2003, when Ms. MacKenzie returned from her vacation, it was discovered that the subject application had been overlooked, and had not been filed by December 26 as requested and required for securing priority of JP '637 under 35 USC 119. Consequently, Ms. MacKenzie immediately dispatched the subject application to the USPTO,

and filed using USPS Express Mail Certificate ET986049878US. The subject application received a filing date of December 30, 2003.

I hereby declare that all statements made herein on my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
Joseph P. Carrier

May 18, 04  
Date

Attorney Docket No. OCA-184-A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Examiner: unknown  
Confirmation Number: unknown  
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AFFIDAVIT OF KATHRYN MACKENZIE

Affiant, being duly sworn, hereby deposes and states as follows:

1. I am currently employed full-time as a secretary/receptionist at the law firm of Carrier, Blackman & Associates, P.C. (CBA), 24101 Novi Road, Novi, MI 48375, and have been so since June 2001.
2. One of my duties at CBA is to receive express courier deliveries of documents and other things delivered to CBA's offices.
3. Another of my duties at CBA is to open new patent application files for US patent applications which are to be filed by CBA with the US Patent & Trademark Office (PTO), and to docket all items necessary for filing such new applications once CBA has been authorized to file the applications.
4. Still another of my duties at CBA is to prepare all documents necessary for filing new patent applications with the PTO via US Postal Service Express Mail (USPS), including application data sheets and Utility Patent Application Transmittals (form PTO/SB/05), and to deposit the application documents with the USPS once they have been reviewed and signed by one of the registered attorneys at CBA.



5. On November 28, 2003, Japanese patent attorney Takeshi Ochiai (Ochiai), on behalf of Honda Giken Kogyo Kabushiki Kaisha (Honda), requested CBA to revise a translation of Japanese patent application 2002-376637 (JP '637) , and to return a revised copy of the draft application to Ochiai for final revision prior to filing in advance of a deadline of December 26, 2003. JP '637 was filed in the Japanese Patent Office on December 26, 2002 by Honda Giken Kogyo Kabushiki Kaisha (Honda), which acquired ownership of the invention disclosed in said application from the inventors (Matsuda et al.) who were/are employees of Honda.
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8. Upon receipt of the December 19 letter, Joseph P. Carrier (Registration No. 31,748) attorney at CBA instructed me to prepare the documents necessary for filing the application with the PTO (i.e., an application data sheet and a Utility Patent Application Transmittal (form PTO/SB/05)), and that the application should be promptly filed with the PTO via US Postal Service Express Mail (USPS) as soon as the original of the December 19 letter arrived at CBA to ensure that priority of JP '637 would be secured for the US patent application.
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Kathryn MacKenzie

5.18.04  
Date



JC DOCKET

08 DEC 2003

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DUE DATE CURREF

RESPONSE

ITEM DATE ATTORNEY

8/18/2003 SKO-104-A	amendment after final	6/18/2003 JC *
9/1/2003 DFL-400	expert discovery complete	2/10/2003 JC
9/7/2003 EOD-222-T-OPP1	GTI testimony 2 open 9/12 (#5)	12/26/2002 JC
9/12/2003 AND-404	Schucker deposition 9am	8/29/2003 JC
9/12/2003 EOD-222-T-OPP1	GTI testimony opens (#5)	12/26/2002 JC
9/15/2003 DFL-400	fact discovery complete	7/16/2003 JC
9/18/2003 SKO-104-A	notice of appeal	6/18/2003 JC
9/23/2003 DFL-400	final pretrial conference 2p	2/10/2003 JC
10/7/2003 DFL-400	jury trial 9a	2/10/2003 JC
10/7/2003 EOD-222-T-OPP1	GTI testimony 2 close 10/12 (#5)	12/26/2002 JC
10/12/2003 EOD-222-T-OPP1	GTI testimony closes (#5)	12/26/2002 JC
10/12/2003 NGB-105-A	interview w/examiner	9/12/2003 JC
10/15/2003 DFL-400	expert discovery complete	7/16/2003 JC
10/16/2003 SIP-145-A	notice of appeal	7/16/2003 JC
10/18/2003 SKO-104-A	appeal brief	6/18/2003 JC
10/20/2003 OAA-145-A	amendment after final	8/20/2003 JC
10/24/2003 OAA-163-A	GA letter to FA	10/3/2003 JC
10/30/2003 NGB-108-A	interview w/examiner	9/30/2003 JC
10/30/2003 SIP-106-A	interview w/examiner	9/30/2003 JC
11/5/2003 DFL-400	final pretrial conference	7/16/2003 JC
11/7/2003 EOD-222-T-OPP1	JDE testimony 2 open 11/12 (#5)	12/26/2002 JC
11/9/2003 EOD-105-A	interview w/examiner	9/9/2003 JC
11/12/2003 EOD-222-T-OPP1	JDE testimony opens (#5)	12/26/2002 JC
11/12/2003 NGB-105-A	amendment after final	9/12/2003 JC
11/12/2003 SKO-104-A	interview w/examiner	9/12/2003 JC
11/15/2003 SKT-103-A	interview w/examiner	9/15/2003 JC
11/15/2003 EOD-137-P	prepare application	10/16/2003 JC
11/16/2003 SIP-145-A	appeal brief	7/16/2003 JC
11/19/2003 DFL-400	jury trial	7/16/2003 JC
11/20/2003 OAA-145-A	notice of appeal	8/20/2003 JC
11/21/2003 EHH-126-A	interview w/examiner	10/21/2003 JC
11/25/2003 KNI-159-A	interview w/examiner	9/25/2003 JC
11/25/2003 NGB-112-A	interview w/examiner	9/25/2003 JC
11/25/2003 WDM-100-A-1	interview w/examiner	9/25/2003 JC
11/26/2003 SKT-102-A	GA letter to FA	11/5/2003 JC
11/28/2003 CSP-102-A-1-R	appeal brief	7/28/2003 JC
11/30/2003 NGB-108-A	amendment after final	9/30/2003 JC
11/30/2003 SIP-106-A	amendment after final	9/30/2003 JC
12/3/2003 OCA-163-A	interview w/examiner	10/3/2003 JC
12/5/2003 EOD-103-A	notice of appeal	9/5/2003 JC
12/5/2003 HSM-121-A	draft to Honda by 12/12/03	12/25/2002 JC

EXHIBIT

F

JC DOCKET

08 DEC 2003

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DUEDATE	CURREF	RESPONSE	ITEMDATE	ATTORNEY
12/5/2003	HGM-122-A	draft to Honda by 12/12/03	12/26/2002	JC
12/5/2003	OCA-162-A	OA letter to FA	11/14/2003	JC
12/5/2003	OCA-134-A	draft to OCA by 12/12/03	12/26/2002	JC
12/6/2003	EOD-222-T-OPP1	JDE testimony 2 close 12/11 (#5)	12/26/2002	JC
12/7/2003	EOD-116-A	interview w/examiner	10/7/2003	JC
12/7/2003	RSP-102-A	file appeal brief by 12/17	10/17/2003	JC
12/9/2003	EOD-105-A	amendment	9/9/2003	JC
12/9/2003	IIP-102-A	amendment	9/9/2003	JC
12/9/2003	NGB-106-A	OA letter to FA	11/18/2003	JC
12/10/2003	NGB-109-A	OA letter to FA	11/26/2003	JC
12/11/2003	EOD-222-T-CAN1	counterclaim answer due 12/18	11/18/2003	JC
12/11/2003	EOD-222-T-OPP1	JDE testimony closes (#5)	12/26/2002	JC
12/11/2003	OCA-164-A	file application	12/5/2002	JC
12/12/2003	HGM-121-A	draft to Honda file by 12/20/03	12/25/2002	JC
12/12/2003	HGM-122-A	draft to Honda file by 12/20/03	12/26/2002	JC
12/12/2003	NGB-105-A	notice of appeal	9/12/2003	JC
12/12/2003	OCA-104-A	OCA needs draft today	12/26/2002	JC
12/12/2003	SKO-104-A	amendment	9/12/2003	JC
12/15/2003	SKT-103-A	amendment	9/15/2003	JC
12/17/2003	RSP-102-A	appeal brief due	10/17/2003	JC
12/18/2003	EOD-222-T-CAN1	counterclaim answer due (#2)	11/18/2003	JC
12/19/2003	OCA-160-A	OA letter to FA	11/28/2003	JC
12/20/2003	HGM-121-A	file application	12/25/2002	JC
12/20/2003	HGM-122-A	file application	12/26/2002	JC
12/24/2003	EHH-126-A	amendment after final	10/21/2003	JC
12/25/2003	KNI-159-A	amendment	9/25/2003	JC
12/25/2003	NGB-112-A	amendment	9/25/2003	JC
12/25/2003	WDM-100-A	amendment	9/25/2003	JC
12/26/2003	EOD-103-A	file appeal brief by 1/5/04	11/5/2003	JC
12/26/2003	NGB-109-A	interview w/examiner	11/26/2003	JC
12/30/2003	KNI-145-A	interview w/examiner	10/30/2003	JC
12/30/2003	NGB-108-A	notice of appeal	9/30/2003	JC
12/30/2003	OAA-145-A	appeal brief	8/20/2003	JC
12/30/2003	SIP-106-A	notice of appeal	9/30/2003	JC

NEW 12/13/03 RPO-105-A file application

NEW 12/17/03 VVG-101-A file application

NEW 12/20/03 KNI-115-A file application

NEW 12/27/03 KNI-112-A file application

NEW 12/29/03 NGB-119-A + NGB-120-A file applications  
NGB-121-A + NGB-122-A